

BLS-ADR COMMITTEE MEETING
April 12, 2006

ATTENDANCE:

Members:

Michael Carbone
Paul Dubow
Michele Flurer
Jane Garzilli
Ruth Glick
Carol Medof
Irving Pfeffer
Tom Reese
Robert St. Aubin
Jon Sylvester
Eric Van Ginkle

Executive Committee Liaison:

Peter Bronson

Guests:

Steve Sherman (new member)
Martin Perlberger

1. Meeting called to order by Mike Carbone at 12:08 PM.
2. Minutes approved as corrected.
3. Program Committee Report by Michele Flurer.
 - a. 3 month time line for electronic programs. Committee needs to accommodate Bar requirements once program established which arise out of agreement with an outside production company.
 - b. Publicity via email; 1000 Cyberspace members and 9000 Business Law Committee members plus "forward" elsewhere.
 - c. April 25, 2006 @ 10:30 am – 11:30am MCLE Credit 1 hour" ONLINE DISPUTE RESOLUTION." Practice run April 19, 2006.
 - d. Need for polling questions re future programs and who attends.

- e. October 6, 2006: Bar Convention program 2:15 pm-4: 15 pm on Local Court Programs (Los Angeles).
- f. September 1, 2006 is deadline for Section Education Institute programs. Possible program: Arbitration Clauses that Fly and those that do Not.
- g. State Bar ADR BLS Reception @ 5:30 pm October 6, 2006.

4. Legislative Committee Report:

- a. AB 1176 (Tran) dead.
- b. AB 2482 (Harmon) eliminates sunset on CCP 1282.4 (which negates Birbrower decision) and permits out of state attorneys to appear in arbitrations after filing a certificate with State Bar. Erik Van Ginkle moved that the Committee support 2482. Discussion. Passed with one Nay.
- c. AB 2371 (Levine); Possibly preempted by the FAA. Provides that employee cannot be required to agree to arbitration as a condition of employment and burden on employer to show consensual.
- d. Three anti-Grafton bills pending. 2 are very general. AB 2767 (Canciamilla) excepts "consumers. Motion by Paul Dubow to support AB 2767 provided it is amended to except all adhesion contracts, not just consumers. Passed unanimously.

5. Policy Issue: Rule 1-720 of Rules of Professional Conduct seeks to bring court mediation and arbitration standards to all mediations and arbitrations. Going out for public comment in spite of Bar ADR Committee request that it be rewritten. Mike Carbone invites ADR-BLS committee members to review Bar ADR Committee letter request in preparation for ADR-BLS Committee discussion on whether to support proposal as written.

6. Leadership Retreat:

- a. Creation of liaisons among committees encouraged. Corporations Cmt. wants liaison with ADR-BLS.
- b. Manual for ADR Clauses requested.
- c. Website updates overloading Bar staff. Reduction of delay expect in several months.
- d. "Work Room" concept under development.

7. ADR Manual: Goal to complete by October State Bar Convention so it can be circulated at that time. It shall include: complete clauses for various circumstances; checklists; when to choose arbitration and how to choose arbitrators; footnote cases on arbitration. Mike Carbone proposed that all persons working on Manual project convene by video conference to discuss status and completion.

8. Kieturakes case discussed. Raises issue of clash of mediation confidentiality and enforcement of mediated agreements. Note UMA exception to confidentiality to enforce mediated agreements. Note Peter Robinson's Law Review Article of several years ago on this issue.

Thomas Reese
Acting Secretary